

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

CRYSTALLEX INTERNATIONAL CORP.,

Plaintiff,

v.

BOLIVARIAN REPUBLIC OF VENEZUELA,

Defendant.

C.A. No. 1:17-mc-00151-LPS

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**PLAINTIFFS KOCH MINERALS SÀRL'S AND KOCH NITROGEN  
INTERNATIONAL'S JUDGMENT STATEMENT**

DATED: August 14, 2023

Respectfully submitted:

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*Attorneys for the Koch Parties*

Plaintiffs and judgment creditors Koch Minerals Sàrl (“KOMSA”) and Koch Nitrogen International Sàrl (“KNI”) (collectively, “the Koch Parties”), submit this statement pursuant to the Special Master’s August 7, 2023, Letter (D.I. 652) and Paragraph 32 of the Sale Procedure Order, which requires that:

[b]y no later than 21 calendar days following the Preparation Launch Date any holder of an Attached Judgment or holder of a judgment seeking to be an Attached Judgment shall deliver to the Special Master and to counsel for the Venezuela Parties a statement indicating the amount such creditor contends remains outstanding with respect to their Attached Judgment or judgment. Such creditor shall provide reasonably sufficient supporting documentation regarding any alleged outstanding balance and all amounts and assets received by reason of the Attached Judgment or judgment and any other information pertinent to understanding the outstanding balance of the applicable Attached Judgment or judgment.

### **1. Short summary of the parties’ underlying dispute.**

On October 30, 2017, an ICSID tribunal (the “Tribunal”)<sup>1</sup> issued an arbitration award (“Award”) finding the Bolivarian Republic of Venezuela (“Venezuela”) liable for the unlawful expropriation of the Koch Parties’ investments in Venezuela in 2010. *See Koch Minerals Sàrl v. Bolivarian Republic of Venez.*, No. 1:17-cv-2559-ZMF (D.D.C. Nov. 28, 2017), D.I. 7 ¶¶ 12–13 (the Koch Parties’ Amended Complaint). On April 11, 2018, the Tribunal effectively amended the Award by issuing a Decision on Rectification, noticing and correcting an error in the calculation of the principal amount for which Venezuela was liable. *Id.* ¶ 26. Together, the October 30, 2017, Award and the Tribunal’s April 11, 2018, Decision on Rectification thus constitute the full and final award (“Final Award”) in this case.

In November of 2017, the Koch Parties filed a complaint before the District Court for the District of Columbia seeking to enforce the Award. *Koch Minerals Sàrl v. Bolivarian Republic of Venez.*, No. 1:17-cv-2559-ZMF (D.D.C. Nov. 28, 2017), D.I. 1. In May 2018, the Koch Parties amended their complaint<sup>2</sup> to account for the Decision on Rectification and, on March 22, 2021, the Koch Parties filed a Motion for Summary Judgment seeking a judgment to enforce the Final Award. The Court granted the Motion for Summary Judgment on August 18, 2021. *See* Memorandum Opinion & Order, *Koch Minerals Sàrl v. Bolivarian Republic of Venez.*, No. 1:17-cv-2559-ZMF, D.I. 55 ; *see also* *Koch Minerals Sàrl v. Bolivarian Republic of Venez.*, No. 1:17-cv-2559-ZMF, D.I. 52, 60. The August judgment, however, contained several errors in the calculation of the amount of damages awarded to the Koch Parties. The D.C. District Court thereafter issued a corrected and consolidated judgment on February 22, 2022 (“Judgment”). *See* Ex. B. The Koch Parties then registered the Judgment with this Court pursuant to 28 U.S.C. § 1963 on March 31, 2022. *See* 22-mc-156, D.I. 1.

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<sup>1</sup> *See* Convention on the Settlement of Investment Disputes between States and Nationals of Other States, 17 U.S.T. 1270, 55 U.N.T.S. 159 (1965).

<sup>2</sup> *See Koch Minerals Sàrl v. Bolivarian Republic of Venez.*, No. 1:17-cv-2559-ZMF (D.D.C. Nov. 28, 2017), D.I. 7.

On October 7, 2022, the Koch Parties filed a motion for an order authorizing the Clerk of the Court to issue a writ of attachment *fieri facias* (“*fi. fa.*”) in accordance with Section 1610(a)(6) of the Foreign Sovereign Immunities Act (“FSIA”), Rule 69(a)(1) of the Federal Rules of Civil Procedure, and Sections 5031 (10 Del. C. § 5031) and 324 (8 Del. C. § 324(a)) of the Delaware Code as to the shares of PDV Holding, Inc. (“PDVH”), a Delaware corporation fully-owned by Petróleos de Venezuela S.A. (“PDVSA”), the state oil company and alter ego of judgment debtor Venezuela.<sup>3</sup> 22-mc-156, D.I. 2. In separate proceedings, the Court issued a March 23, 2023, order granting other creditors’ conditional writs of attachment after finding that PDVSA remained Venezuela’s alter ego. *See* 20-mc-00257, D.I. 81. PDVSA then consented to applying the Court’s finding to the Koch Parties’ then-pending motion for writ of attachment. *See* 22-mc-156, D.I. 21. The Third Circuit recently affirmed the Court’s March 23, 2023, order. *See OI European Grp. B.V. v. Bolivarian Republic of Venezuela Petroleos de Venezuela*, 73 F.4th 157 (3d Cir. 2023).

## **2. Description of any collection efforts by the Judgment Holder to-date.**

The Koch Parties have no other collection efforts involving the Venezuela Parties.

## **3. The initial amount of the applicable judgment.**

The initial amount of the Judgment, attached as Exhibit B, is \$449,361,733.45.<sup>4</sup> This is the amount of Venezuela owed the Koch Parties as of the date of the judgment, and does not include post-judgment interest to date.

## **4. The amount by which the judgment has been reduced, if at all, as a result of any collection efforts by the Judgment Creditor.**

The Koch Parties have not received any payment reducing the amount of the judgment owed.

## **5. The proposed rate at which post-judgment interest is, or may be, accruing on the applicable judgment, including a proposed formula to be used for calculation of post-judgment interest on a daily-basis.**

The Judgment calls for post-judgment interest pursuant to 28 U.S.C. § 1961, which is calculated “from the date of the entry of the judgment, at a rate equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the date of the judgment.” 28 U.S.C. § 1961(a). “Interest shall be computed daily to the date of payment . . . and shall be compounded annually.” 28 U.S.C. § 1961(b).

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<sup>3</sup> Venezuela, PDVSA, and PDVH are collectively referred to as “the Venezuela Parties.”

<sup>4</sup> Attached as Exhibit C is a pdf of an excel worksheet that calculates the total amount owed, including interest. The Koch Parties will email a native version of the excel sheet to the Special Master, as well as the Venezuela Parties, so that they may inspect the document’s formulas.

The applicable interest rate for the Koch Parties' judgment is 1.08%. The formula to calculate interest pursuant to Section 1961 on a daily basis is as follows:

$$(\$ \text{ Judgment Amount} \times \text{Interest Rate} / 365) + \text{Days Passed in Current Year}$$

The above formula is compounded annually. To illustrate, the total amount of judgment owed after the first year (February 22, 2022 – February 21, 2023) is as follows:

$$(((\$449,361,733.45 \times 1.08\%) / 365) \times 364^5) + \$449,361,733.45 = \$454,201,544.$$

To compound the interest up to August 14, 2023:

$$(((\$454,201,544 \times 1.08\%) / 365) \times 174^6) + \$454,201,544 = \$456,539,997.52.$$

The Koch Parties have calculated that the Venezuela Parties owe \$7,178,264.08 in post-judgment interest measured from February 22, 2022, through August 14, 2023. *See* Ex. C. This adds to a grand total of \$456,539,997.52.

\* \* \*

In accordance with the Special Master's letter, the following documents are appended to this Judgment Statement:

- Ex. A - Signed Certification
- Ex. B - Docketed Version of the Koch Parties' Judgment
- Ex. C - Excel Workbook of Judgment Calculation

DATED: August 14, 2023

Respectfully submitted:

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<sup>5</sup> This is the amount of days between February 22, 2022 and February 21, 2023.

<sup>6</sup> This is the amount of days between February 22, 2023 and August 14, 2023.